



August 10, 2009

CPUC, Energy Division
Attention: Tariff Unit
505 Van Ness Avenue
San Francisco, CA 94102

RE: RESPONSE TO SCE'S CPUC ADVICE LETTER 2364-E

To Whom It May Concern:

Thank you for this opportunity to provide comments and suggestions on the subject Advice Letter ("AL"). Our company supports this new SCE rooftop solar program and its inclusion of a competitive bidding process for IPP's, and we present the following for your consideration (in no priority order).

PPA Terms & Conditions- Projects Greater Than 2 MW

For projects larger than 2 MW the AL says that SCE may require additional contract terms. The problem is that no basic information or detail is provided on the potential additional required terms. At CPUC's July 31, 2009 workshop on this AL, SCE staff mentioned example additional terms like: more detailed status reports; higher amounts for development security, and; added insurance requirements.

One priority to help this new program succeed is standardization of its PPA, thus avoiding ambiguity, the unpredictable delays of contract negotiation, and potential for more delays with CPUC approval of the PPA. For these larger installations this will also create an imbalance between the SCE-controlled leasing portion of this new program and the IPP bidding process. Finally, the extra time, negotiations and cost of additional PPA terms and conditions risks the ability of larger than 2 MW projects to achieve any economies of scale and related savings for SCE and its customers.

We request that no additional PPA terms and conditions be imposed on projects in the 2 MW to 10 MW range. If any such terms and conditions are necessary we request that they be identified and justified in light of the above identified risks.

Seller Experience With Large Rooftop Installations

The AL states that the "seller" must have sufficient experience with large rooftop PV installations. This is the only place in the AL and proposed PPA where we could find

the word "seller" so we do know the word's specific definition in this context. Nor is there any detail on the word "sufficient".

This new solar rooftop program is designed to support projects that heretofore have not received adequate support. As a result there are few companies with any experience with rooftop projects in the 1 MW to 10 MW range. This creates a risk in limiting the number of IPP developers that might participate in the bidding process, in terms of lost competition and ingenuity.

Presuming the word "seller" refers to the PPA contract entity, another risk is to remove the possibility that the contract entity could be a funding party to the project or a building owner. SCE could still maintain needed expertise throughout the contract term by requiring that ongoing key functions (e.g., monitoring, reporting, etc.) be done by an experienced solar IPP or contractor.

Two Separate Systems On One Rooftop

Some rooftops are large enough to accommodate a solar system that benefits from the CSI and NEM incentives while also having the extra space needed for a 1 MW to 10 MW system under this new program. Such rooftops have the potential to provide onsite power for the building owner/tenant and also power for use elsewhere.

Presumably because such large rooftops are an exception, the AL and related CPUC ruling are not clear in allowing for the installation of two solar systems on large rooftops. For instance, the building owner is required to sign a commitment not to apply for either the CSI or NEM. We request clarification so that building owners can install two separate solar systems- one with CSI/NEM and one with an IPP under this program. In addition, owners of multiple buildings (often with different lessees, SCE customers) should be able to do two solar systems on more than one of their buildings and we request a related statement of clarification.

SCE Buyout Option At End Of PPA Term

The proposed PPA includes a buyout option at the end of the PPA term allowing SCE to buy the solar system for \$100 per MW. Apparently this presumes that SCE will also be securing rights to the involved rooftop with no compensation to the building owner. This proposed buyout term adds risk to the building owner and reduces a project's long-term value by setting an unreasonably low buyout price that is not based on fair market value. Such risk and value impacts threaten to undermine IPP efforts to develop projects for this program while also creating more imbalance with the SCE rooftop lease part of the program.

Comments by attendees at the July 31, 2009 CPUC workshop on this AL raised concerns about the tax implications (e.g., possible loss of federal tax incentives) of SCE's proposed buyout term. We have yet to see any response from SCE on this matter, though SCE did say they would check with their tax counsel.

We request that any buyout option term in the PPA use fair market value or at least a pre-determined value that does not threaten conflict with the IRS and federal incentives.

Thank you for consideration of this response and our requests. We look forward to implementation of this important program to develop this so far overlooked solar market.

Sincerely,

/s/

Edric F. Guise
Partner
National Energy Solutions, LLC